



Planning Department
168 North Edwards Street
Post Office Drawer L
Independence, California 93526

Phone: (760) 878-0263
FAX: (760) 878-0382
E-Mail: inyoplanning@inyocounty.us

February 23, 2012

Clay Jensen, Senior Director, Project Development
BrightSource Energy Inc.
410 S. Rampart Blvd, Suite 390
Las Vegas, NV 89145

DOCKET

11-AFC-2

DATE FEB 23 2012

RECD. FEB 23 2012

Re: Hidden Hills Solar Energy Generating System, Application for Certification (11-AFC-2)
Outstanding County Land Use and Planning Issues

Dear Mr. Jensen:

At the California Energy Commission's (CEC) hearing on January 24, 2012, regarding the proposed Hidden Hills Solar Energy Generating System (HHSEGS), representatives of BrightSource Energy opined that the project is consistent with Inyo County's General Plan and Zoning Ordinance, but provided no legal rationale for this interpretation. I remind you that, to the contrary, the project is inconsistent with the County General Plan and Zoning Ordinance. As County representatives have previously conveyed to you on numerous occasions since last July, I urge you to submit an application for a General Plan Amendment (GPA) and Zone Reclassification as soon as possible. As you know, the County's application (attached) is relatively short and simple to complete. Time is of the essence to submit the application to coincide with the CEC's permitting process, and I fear that your inattention to this matter may unnecessarily delay the project.

The project is proposed on lands designated by the Inyo County General Plan Land Use Element as Open Space and Recreation (OSR) and Resort/Recreational (REC). The OSR designation provides for public parks, ball fields, horse stables, greenbelts, and similar and compatible uses. The REC designation provides for a mixture of residential and recreational commercial uses. The proposed power plant is inconsistent with these designations. In order to bring the project into consistency with the Land Use Element, it is suggested that a GPA be submitted to change the site's land use designation to General Industrial (GI). An alternative would be to process a GPA for a solar energy development land use designation or overlay, which could be applied for the site.

The project site is zoned Open Space with a 40-acre minimum lot size (OS-40). Purposes of the OS zoning district include, but are not limited to, encouraging protection of desert areas and environmental resources, such as scenic, natural features, and the open space character of the County from intensive land use activities. The proposed power plant is not permitted within the OS district; the only zoning designation that conditionally permits power plants is the General Industrial and Extractive (M-1) zoning district. In order for the project to be consistent with the Zoning Ordinance, the zoning for the project site will need to be changed. As an alternative to the M-1 zoning classification, an application for a zone text amendment to create a solar energy zone or similar zoning overlay could be initiated, which could be applied for the site. Other alternatives include applying for a Planned Unit Development (PUD), a Renewable Energy Development Agreement, and/or a Renewable Energy Permit.

Additionally, it appears that structures are proposed to cross property lines and easements for roads and utilities, some of which may have been accepted by the County and, as a property right, require a formal abandonment. To rectify this situation, parcels should be merged and the easements extinguished by one or more of the following three methods: (1) subdivision, (2) merger, or (3) reversion to acreage.


Some of the road dedications may have been accepted by the public, by use, and have become public roads. These road rights-of-way would be property rights held by the public. These perfected rights-of-way cannot be eliminated by subdivision, merger, or reversion to acreage. The public's rights-of-way may only be abandoned by action by the Board of Supervisors. This is a discretionary decision that can be exercised after a public hearing and by making findings regarding the continuing need for the road. County staff is currently confirming whether public roads exist across the project site.

The County is aware of and sensitive to the Commission's and your company's desire to avoid unnecessary delays. To that end, I would be remiss if I failed to point out that the County will need a minimum of 60 days, after the issuance of the environmental document, to process the applications through the decision-making bodies for action. I further understand that the legal complexities presented will require additional time for the various legal teams to concur on the procedural issues. This assumes that the land use applications are expeditiously submitted so that County staff can prepare the proposed actions for Planning Commission and Board of Supervisors action. We acknowledge the environmental review sequencing issues inherent in this process, and reiterate our commitment to working with BrightSource and the CEC to develop a mutually agreeable outcome that minimizes delays.

On January 24, BrightSource Energy represented to the Commission that it was working with the County to resolve the project's non-conformance. Since then, I have not received any communications from your team. If this delay is due to difficulty in understanding the County's requirements, I hope this letter has cleared up any misunderstanding. If you have any questions, please contact me at your earliest convenience at (760) 878-0268 or email me at jhart@inyocounty.us.

Thank you.

Sincerely,



Joshua Hart, AICP
Planning Director

Attachment

cc: Board of Supervisors
CAO
County Counsel
California Energy Commission



Inyo County Planning Department Permit Application
P.O. Drawer L
Independence, CA 93526
(760) 878-0263 (760) 872-2706

Staff Use Only For Public Hearing On: _____

Application Reference Number: _____

Review by: ☐ Staff ☐ Design Review Committee ☐ Planning Commission ☐ Board of Supervisors

Applicant Name: _____

Property owner: Name: _____

Address: _____

Address: _____

City: _____

State: _____

ZIP: _____

City: _____

State: _____

ZIP: _____

Telephone: _____

Telephone: _____

FAX: _____

FAX: _____

Assessor's Parcel Number(s): _____

Zoning: _____

Site Address: _____

General Plan: _____

BY SIGNING THIS APPLICATION THE APPLICANT/PROPERTY OWNER AGREES TO DEFEND, INDEMNIFY, AND HOLD THE COUNTY HARMLESS FROM ANY CLAIM, ACTION, OR PROCEEDING ARISING FROM THIS APPLICATION OR BROUGHT TO ATTACK, SET ASIDE, VOID OR ANNUL THE COUNTY'S APPROVAL OF THIS APPLICATION, AND ANY ENVIRONMENTAL REVIEW ASSOCIATED WITH THE PROPOSED PROJECT.

Property Owner Consent: I consent to the submission of this application:

Date: _____

Signature: _____

Applicant or Engineer Certification: I hereby consent that the information contained in this application and any attachments are correct to the best of my knowledge: **Signature:** _____

Date: _____

Telephone: _____

Address: _____

Application for: ☐ General Plan Amendment ☐ Zone Change ☐ Use Permit ☐ Variance ☐ Tract Map
☐ Parcel Map ☐ Mobilehome Waiver ☐ Mining Reclamation Plan ☐ Parcel Merger ☐ Road Abandonment
☐ Specific Plan ☐ Certificate of Compliance ☐ Design Review Committee ☐ Time Extension
☐ Renewable Energy Development Agreement ☐ Renewable Energy Permit
☐ Renewable Energy Determination ☐ Other

☐ Environmental Information Form ☐ Categorical Exemption ☐ Initial Study/ Negative Declaration
☐ Environmental Impact Report

Submission Requirements: ☐ Cultural Resources Study ☐ Biological Resources Study
☐ Legal Description ☐ 300 foot property owners list ☐ Stamped Envelopes ☐ Landscaping Plan ☐ Color Chips
☐ Lighting Plan ☐ Parking Plan ☐ Site Plan ☐ Floor Plans ☐ Elevations ☐ Deed ☐ Title Report ☐ Alquist-Priolo Study ☐ Military Notification Required

Address:
Township/Range:

☐ 2 foot contours ☐ Buildings and Structures ☐ Wells ☐ Water Lines ☐ Fences ☐ Driveways ☐ Rights of Way
☐ Easements ☐ Roads ☐ Sewage ☐ Drainage ☐ Dimensions of property ☐ Existing land uses ☐ Lot lines
☐ Trash Receptacles ☐ Adjacent street, roads, and highways ☐ Ditches ☐ 100-year floodplain ☐ Fault Zones
☐ Vegetation ☐ Mining Area ☐ Slopes ☐ Grading

[illegible][illegible]



Inyo County Planning Department
ENVIRONMENTAL INFORMATION FORM
(To be Completed by Applicant)

Date Filed: _____

GENERAL INFORMATION

1. Name and Address of property owner: _____
2. Name and address of developer or project sponsor: _____
3. Address of project: _____
Assessor's Parcel Number: _____
4. Name, address, and telephone number of person to be contacted concerning this project: _____

5. Indicate permit application number for the project to which this form pertains: _____
6. List and describe any other related permits and other public approvals required for this project, including those required by city, regional, state and federal agencies: _____

7. Existing zoning district: _____
8. Proposed use of site (Proposed Project): _____

PROJECT DESCRIPTION

9. Site size. _____
10. Buildings and site square footage. _____
11. Number of floors of construction. _____
12. Amount of off-street parking provided. _____
13. Attach plans. _____
14. Proposed scheduling. _____
15. Associated projects. _____
16. Anticipated incremental development. _____
17. If residential, include the number of units, schedule of unit sizes, range of sale prices or rents, and type of household size expected. _____
18. If commercial, indicate the type, whether neighborhood, city or regionally oriented, square footage of sales area, and loading facilities. _____
19. If industrial, indicate type, estimated employment per shift, and loading facilities. _____
20. If institutional, indicate the major function, estimated employment per shift, estimated occupancy, loading facilities, and community benefits to be derived from the project. _____
21. If the project involves a variance, conditional use or rezoning application, state this and indicate clearly why the application is required. _____

PROJECT CHECKLIST

Are the following items applicable to the project or its effects? Please include written discussions of any items checked "yes" (attach additional sheets as necessary).

- | | Yes | No |
|--|--------------------------|--------------------------|
| 21. Change in existing features of any bays, tidelands, beaches, or hills, or substantial alteration of ground contours. | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. Change in scenic views or vistas from existing residential areas or public lands or roads. | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. Change in pattern, scale, or character of general area of project. | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. Significant amounts of solid waste or litter. | <input type="checkbox"/> | <input type="checkbox"/> |
| 25. Change in dust, ash, smoke, fumes, or odors in vicinity. | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. Change in ocean, bay, lake, stream or ground water quality or quantity, or alteration of existing drainage patterns. | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. Substantial change in existing noise or vibration levels in the vicinity. | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. Site on filled land or on slope of 10 percent or more. | <input type="checkbox"/> | <input type="checkbox"/> |
| 29. Use of disposal of potentially hazardous materials, such as toxic substances, flammables or explosives. | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. Substantial change in demand for municipal services (police, fire, water, sewage, etc.). | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. Substantially increase fossil fuel consumption (electricity, oil, natural gas, etc.). | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. Relationship to a larger project or series of projects. | <input type="checkbox"/> | <input type="checkbox"/> |

ENVIRONMENTAL SETTING

33. Describe the project site as it exists before the project, including information on topography, soil stability, plants and animals, and any cultural, historical or scenic aspects. Describe any existing structures on the site, and the use of the structures. Attach photographs of the site. Attach additional sheets as necessary.
34. Describe the surrounding properties, including information on plant and animals and any cultural, historical or scenic aspects. Indicate the type of land use (residential, commercial, etc.), intensity of land use (one-family, apartment houses, shops, department stores, etc.), and scale of development (height, frontage, setback, rear yard, etc.). Attach photographs of the vicinity. Attach additional sheets as necessary.

CERTIFICATION

I hereby certify that written statements, attachments, and exhibits present facts required for this initial evaluation to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

Date _____

Signature _____

Signature _____

For _____



CONSENT OF PROPERTY OWNER AND DESIGNATION OF AUTHORIZED AGENT

Inyo County Planning Department

File No. _____

I (we) the undersigned owner of record of the fee interest in the parcel of land located at: (print address) _____ identified as Assessor Parcel Number _____ - _____ - _____ for which a land use permit, land division, general plan or ordinance amendment, or LAFCO application referral is being filed with Inyo county requesting an approval for: (specify type of project, for example: General Plan amendment) _____, do hereby certify that:

1. Such application may be filed and processed with my (our) full consent, and that I (we) have authorized (print name of agent) _____ to act as my (our) agent in all contacts with Inyo County and to sign for all necessary permits in connection with this matter.
2. I (we) hereby grant consent to the Inyo County, its officers, agents, employees, independent contractors, consultants, subconsultants and their officers, agents, and employees to enter the property identified above to conduct any and all surveys and inspections that are considered appropriate by the inspecting person or entity to process this application. This consent also extends to governmental entities other than the county, their officers, agencies, employees, independent contractors, consultants, subconsultants, and their officers agents or employees if the other governmental entities are providing review, inspections and surveys to assist the county in processing this application. This consent will expire upon completion of the project.
3. If prior notice is required for an entry to survey or inspect the property. Please contact:
Print Name: _____
Print Address: _____
Daytime Telephone Number: _____
4. I (we) hereby give notice of the following concealed or unconcealed dangerous conditions on the property: _____

Person or entity granting consent:

Print Name: _____
Print Address: _____
Daytime Telephone Number: _____ Date: _____
Signature of property owner: _____

Authorized agent:

Print Name: _____
Print Address: _____
Daytime Telephone Number: _____
Signature of authorized agent: _____ Date: _____

Inyo County Planning Department

REQUIREMENTS FOR PROVIDING PUBLIC HEARING NOTICE INFORMATION

The following applications require the provision of public hearing notices to surrounding property owners within 300 feet:

- Conditional Use Permit
- Certificates of Compliance (boundary line adjustments and land divisions)
- General Plan Amendment
- Mobilehome Waiver
- Road Abandonment
- Surface Mining Reclamation Plan
- Variance
- Zoning Reclassification
- Tentative Parcel Map
- Tentative Tract Map

When applying for any of the above, you are required to provide the information necessary to notify the surrounding property owners about all public hearings for your project. This information shall be provided in the following manner:

1. Using the current Inyo County Assessor's map(s) that includes the parcel(s) upon which your project is located and all parcels within 300 feet of the exterior boundaries of that parcel, clearly outline the exterior boundaries of the parcel(s) on which your project is located. A second line must be drawn to clearly indicate a distance of 300 feet from the exterior boundaries of the parcel(s) upon which the project is located. Check the scale shown on each map (they may be different), and use all necessary adjoining maps to include all surrounding properties within 300 feet.
2. Using the latest information from the Inyo County Assessor's tax roll under preparation, list the Assessor Parcel Numbers (APNs), property owners name, and address for all parcels located within, partially within, or touching the areas included within the 300 foot boundary of the parcel(s) upon which your project is located.
3. Assessor's Maps may be purchased from the Inyo County Assessor's Office. Staff can help you determine which map(s) you will need. **The Inyo County Assessor's Office will provide the required list of surrounding property owners for a fee. You may contact the Assessor's Office at (760) 878-0302.**
4. You must also prepare a list of the names and address of service providers to your proposed project including water service, sewer service, schools, fire protection, electricity, telephone, and cable television.
5. Include the following with your application when you submit it to the Planning Department:
 - The county assessor maps(s) covering your project site with the 300 foot surrounding area shown outlined.
 - The list of Assessor Parcel Numbers, property owners and addressed for all properties within 300 feet of the project site.
 - Names and addresses of the applicant, the applicant's representative or other interested parties.
 - Number 10 envelopes (letter sized) with first class postage affixed and addressed to each owner and service provider.
 - This form signed and dated at the bottom.

CERTIFIED PROPERTY OWNER LIST

I, hereby certify that the attached information contains all of the assessor parcel numbers from the latest Assessor's Roll under preparation of all the properties within the area described on the attached application and within a distance of three hundred (300) feet from all exterior boundaries of that property. In addition, all service providers' names and addresses have been provided.

I certify under penalty of perjury that the foregoing is true and correct.

Signed _____ Date _____

INYO COUNTY PLANNING DEPARTMENT CUSTOMER SURVEY

This survey is part of the Planning Department's ongoing effort to improve services to citizens using the Inyo County permit processing system. This completed survey should be mailed in the enclosed postage paid envelope. Thank you for your feedback.

YES NO

		1. Is the Planning Department office located conveniently for your access?
		2. Would Planning Department field offices in other parts of Inyo County be important to you?
		3. Were you readily able to reach the Planning office by telephone?
		4. Were return calls made within a reasonable amount of time?
		5. Were handouts available explaining the various permits?
		6. Were the application forms clear and easy to use?
		7. Did you receive a clear indication of the processing time for your project?
		8. At the time of application were you told your public hearing date?
		9. Did you receive the help you needed from the Planning staff?
		10. Was a review copy of the staff report submitted to you before the Planning Commission meeting?
		11. Did you discuss the staff report and recommended conditions with staff before the Planning Commission meeting?
		12. Did staff recommend fair and reasonable permit conditions?
		13. Did the Planning staff present information to you understandably?
		15. Were the applications processing fees required by the County for your Planning applications excessive?
		16. Was your interaction with the Planning Department pleasant?
		17. Did the Planning Commission conduct a fair hearing for your project?

Do you have any suggestions for improving service or complaints concerning the service you received from the Planning Department?

If you would like a response to your comments, please provide your name and telephone number (optional).

Name: _____ Telephone: (____) _____



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PROCESSING FEE AGREEMENT

APPLICATION TYPE: (Check the type of processing requested)

- | | | | |
|--|---|---|--|
| <input type="checkbox"/> APPEAL | <input type="checkbox"/> MINE INSPECTION | <input type="checkbox"/> PARCEL MERGER | <input type="checkbox"/> TRACT MAP |
| <input type="checkbox"/> CERTIFICATE OF COMPLIANCE | <input type="checkbox"/> MINE RECLAMATION PLAN | <input type="checkbox"/> ROAD ABANDONMENT | <input type="checkbox"/> VARIANCE |
| <input type="checkbox"/> LOT LINE ADJUSTMENT | <input type="checkbox"/> MOBILEHOME WAIVER | <input type="checkbox"/> SPECIFIC PLAN | <input type="checkbox"/> ZONE RECLASSIFICATION |
| <input type="checkbox"/> CONDITIONAL USE PERMIT | <input type="checkbox"/> PARCEL MAP | <input type="checkbox"/> TELECOMMUNICATIONS
PLAN | <input type="checkbox"/> OTHER: _____ |
| <input type="checkbox"/> GENERAL PLAN AMENDMENT | <input type="checkbox"/> PRE-APPLICATION MEETING REQUIRED | | |

APPLICANT INFORMATION: (Contact person)

Applicant Name: _____ Day Phone: (____) _____

Billing Address: _____ Zip Code _____

Landowner Name: _____ Day Phone: (____) _____

Mailing Address: _____ Zip Code _____

Agent Name: _____ Day Phone: (____) _____

Mailing Address: _____ Zip Code _____

PROPERTY INFORMATION: Assessor's Parcel Number(s): _____ Total Site Area _____

Legal Description: Lot _____ Block _____ Tract _____ (or),

Section _____ Township _____ Range _____ Base line & Meridian _____

Site Location: (if no street address, describe first with name of road providing access to the site, then nearest roads, landmarks):

By County ordinance, Planning Department Processing Fees recover the costs of processing applications. These costs include personnel and overhead costs, as indicated on the attached schedule, as well as the cost of materials necessary to process the application. The deposit you pay is an estimate of the cost of processing the application and may not cover the entire cost for which you will ultimately be responsible.

Your initial deposit amount of \$ _____ will be applied toward processing your application(s). Interest does not accrue on this deposit. Monthly withdrawals against this deposit will be made based on the costs incurred in processing your application(s). Statements will be sent to you each month documenting the draws against your deposit. If the deposit reaches a balance of \$400.00 or less, you will be asked to make a subsequent deposit. You will be expected to deposit these additional fees within 30 days of a request for additional funds. If there is a balance remaining after reconciling the final bill, a refund check will be mailed to you within 45 days of the final closure of the project.

In order to implement the cost recovery provisions, please sign this statement indicating your agreement to the cost recovery procedure. The signed agreement is required for your application(s) to be accepted for processing. If you have questions regarding your application(s), or the billing status of your application(s), contact the Inyo County Planning Department at (760) 878-0263, and provide your project file number(s).

I, _____ (applicant's name), agree to pay the Inyo County Planning Department Processing Fee, which consists of the costs, as described above, incurred by Inyo County in processing this application. Such payment will be made to the Inyo County Planning Department, P.O. Drawer L, Independence, CA 93526. I understand and agree that processing of my application will be suspended pending receipt by the Planning Department of all requested deposits. In the event of default of my obligations, I agree to pay all costs and expenses incurred by Inyo County in securing performance of this obligation, including the cost of suit and reasonable attorneys' fees.

Responsible Party's Signature * _____ Date _____

Project File Number(s): _____

* Applicant or Landowner listed above